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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: McCullough et al.

Confirmation No.: 2010

Application No.: 10/653,072

Group Art Unit: 1617

Filed: September 3, 2003

Examiner: S. Hui

For: ANTIEMETIC COMPOSITIONS OF
OPTICALLY PURE (+) NORCISAPRIDE

Attorney Docket No.: 4821-524-999
(JD 208423-999522)

TERMINAL DISCLAIMER UNDER 37 C.F.R. 1.321(c)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Sepracor Inc. is the assignee of the entire right, title and interest in and to U.S. Patent Nos. 6,242,465 ("the '465 patent") and 6,632,827 ("the '827 patent") by virtue of an assignment of U.S. Patent No. 5,739,151 ("the '151 patent")¹ from J. McCullough and T. Jerussi to Sepracor Inc., which was recorded at Reel 008230, Frame 0822.

Sepracor Inc. is also the assignee of the entire right, title and interest in and to the above-identified application by virtue of the same assignment because the '151 patent is also a parent of this application.

Sepracor Inc. hereby disclaims the terminal part of any patent granted on the above-identified application which would extend beyond the expiration date of the '465 and '827 patents, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the '465 and 827 patents.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration of the full statutory term of either the '465 patent or the '827 patent in the event that either patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in

¹ The '151 patent is a parent to both the '465 and '827 patents.

whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its full statutory term, except for the separation of legal title stated above.

A fee of \$ 130.00 is believed due under 37 C.F.R. 120(d) for the submission of this terminal disclaimer. Please charge this, and any other required fees, to Jones Day Deposit Account No. 503013. A copy of this sheet is enclosed.

Respectfully submitted,

Date October 27, 2006

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